

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MATTHEW SHAWN BORKE,

Plaintiff,

Case No. 20-cv-12774

Hon. Matthew F. Leitman

v.

KELCY WARREN, et al.,

Defendants.

**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF No. 30) AND (2) TERMINATING
DEFENDANTS' MOTIONS TO DISMISS (ECF Nos. 12, 18)
WITHOUT PREJUDICE**

On October 13, 2020, Plaintiff Matthew Shawn Borke filed a *pro se* civil-rights action against the Defendants. (*See* Compl., ECF No. 1.) The Defendants then moved to dismiss. (*See* Mots., ECF No. 12, 18.) After the Defendants filed their motions, the assigned Magistrate Judge issued an order in which he granted Borke leave to file a First Amended Complaint “in order to remedy the purported pleading defects that Defendants [] raised in their motion[s] to dismiss.” (Order, ECF No. 22, PageID.174-175.) The Magistrate Judge also told the parties that if Borke filed a First Amended Complaint, he would recommend that the Court terminate Defendants’ motions to dismiss as moot. (*See id.*)

Borke filed a First Amended Complaint on March 31, 2021. (*See* First Am. Compl., ECF No. 26.) And Defendants have now filed new motions to dismiss that pleading. (*See* Mots., ECF Nos. 27, 28.) In light of the filing of the First Amended Complaint and Defendants’ new motions, the Magistrate Judge issued a report and recommendation on April 20, 2021, in which he recommended that the Court deny Defendants’ initial motions to dismiss without prejudice as moot (the “R&R”). (*See* R&R, ECF No. 30.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of the recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.*, PageID.355.)

No party has filed any objections to the R&R. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). Likewise, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because no party has filed objections to the R&R, and because Defendants’ initially-filed motions to dismiss are now moot, the Court **ADOPTS** Magistrate Judge’s recommended disposition of Defendants’ motions.

IT IS FURTHER ORDERED that Defendants' initially-filed motions to dismiss (ECF Nos. 12, 18) are **TERMINATED WITHOUT PREJUDICE** as moot.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: May 6, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 6, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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